

November 14, 2023

BY ECF

Hon. Loretta A. Preska  
United States District Court  
for the Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street, Courtroom 12A  
New York, New York 10007-1312

Re: *Aurelius Capital Master, Ltd. v. The Republic of Argentina*,  
No. 19 Civ. 351 (LAP) (S.D.N.Y.);

*Novoriver S.A. v. Argentine Republic*,  
No. 19 Civ. 9786 (LAP) (S.D.N.Y.);

*ACP Master, Ltd. v. The Republic of Argentina*,  
No. 19 Civ. 10109 (LAP) (S.D.N.Y.);

*683 Capital Partners, LP v. The Republic of Argentina*,  
No. 19 Civ. 10131 (LAP) (S.D.N.Y.);

*Adona LLC, Egoz I LLC, Egoz II LLC, Mastergen, LLC, Erythrina, LLC, AP 2016 1, LLC, AP 2014 3A, LLC, AP 2014 2, LLC, and WASO Holding Corp. v. The Republic of Argentina*, No. 19 Civ. 11338 (LAP) (S.D.N.Y.); and

*Ape Group SPA, Romano Consulting SPA, Icaro SRL, and Elazar Romano v. The Republic of Argentina*,  
No. 20 Civ. 10409 (LAP) (S.D.N.Y.).

Dear Judge Preska:

We write on behalf of plaintiffs Aurelius Capital Master, Ltd. (“Aurelius”); Novoriver S.A. (“Novoriver”); ACP Master, Ltd. (“ACP Master”); 683 Capital Partners, LP (“683 Capital”), Adona LLC, Egoz I LLC, Egoz II LLC, Mastergen, LLC, Erythrina, LLC, AP 2016 1, LLC, AP 2014 3A,

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LLC, AP 2014 2, LLC, and WASO Holding Corporation (the “Adona Plaintiffs”); and Ape Group SpA, Romano Consulting SpA, Icaro SRL and Elazar Romano (the “Ape Plaintiffs” and, together with Aurelius, Novoriver, ACP Master, 683 Capital, and the Adona Plaintiffs, the “Plaintiffs”), in response to the August 23, 2023 letter from Defendant the Republic of Argentina (the “Republic”) regarding sealing of the Republic’s August 23, 2023 summary judgment filings (19-cv-351, Dkt. No. 149).

Plaintiffs have reviewed the referenced materials that they designated as confidential and respond as set forth below. Except for item 1, which represents the position of all Plaintiffs, each Plaintiff (or group of Plaintiffs) responds on its own behalf and takes no position as to the responses of any other Plaintiff. For the Court’s convenience, the positions set forth in this letter are summarized in the charts attached hereto as **Appendix A**.

### 1. Materials designated by all Plaintiffs

- a. The Republic filed under seal transcripts of depositions of expert witnesses that constitute or reflect materials designated as confidential by all Plaintiffs. Plaintiffs do not seek to maintain their confidentiality assertions as to these materials and consent to the unsealing of Exhibit Nos. 185, 197, 217, and 248 to the Declaration of Robert J. Giuffra, Jr., dated August 23, 2023 (19-cv-351, Dkt. No. 153) (the “Giuffra Declaration”).
- b. Likewise, Plaintiffs consent to the removal of the following redactions applied to the Republic’s Brief (19-cv-351, Dkt. No. 154), and the Republic’s Supplemental 56.1 Statement (19-cv-351, Dkt. No. 151):
  - i. Brief: page 38; page 55; page 58, and page 60.
  - ii. Supplemental 56.1 Statement: ¶ 39, ¶ 40, ¶ 49, ¶ 54, ¶ 64 (citation to “Arg. Ex. 248”), ¶ 78, ¶ 108, and ¶ 110.
- c. The Republic’s August 23 letter stated that it sought to file Exhibit No. 189 to the Giuffra Declaration under seal on the ground that it was one of “Plaintiffs’ produced

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documents that have been designated Confidential under the Protective Order, as well as excerpted portions of deposition transcripts that Plaintiffs have designated Confidential under the Protective Order.” That is incorrect. Exhibit No. 189 is the text of an Argentine statute. It was not produced by any Plaintiff and was not filed under seal by the Republic. Plaintiffs take no position as to whether Exhibit No. 189 should be sealed.

**2. Materials designated by Aurelius and ACP Master**

- a. Aurelius and ACP Master consent to the unsealing of Exhibit Nos. 247 and 250 to the Giuffra Declaration.
- b. Aurelius and ACP Master seek to maintain information in the column titled “Broker” in Exhibit No. 236. Exhibit No. 236 is the same document that the Republic previously filed as Exhibit No. 160 to the April 14, 2023 Declaration of Robert J. Giuffra, Jr. (19-cv-351, Dkt. No. 134). As explained in Plaintiffs’ prior letter of May 1, 2023 (19-cv-351, Dkt. No. 140), the “Broker” column in this document provides information about the identity and location of the various brokers with whom Aurelius and ACP Master have transacted with respect to the Republic’s GDP Warrants. Aurelius’s and ACP Master’s relationships with their brokers—including how they allocated trading requests among their brokers—constitutes commercially sensitive information, just as any company’s allocation of business among its various suppliers and vendors is commercially sensitive. Accordingly, it is appropriate to maintain the information in the “Broker” column under seal. *See, e.g., Louis Vuitton Malletier S.A. v. Sunny Merch. Corp.*, 97 F. Supp. 3d 485, 511 (S.D.N.Y. 2015) (Preska, J.) (sustaining redactions to summary judgment materials that were “limited to specific business information and strategies, which, if revealed, ‘may provide valuable insights into a company’s current business practices that a competitor would seek to exploit.’”).

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- c. Aurelius and ACP Master seek to maintain Exhibit No. 235 under seal. That document consists of an internal Aurelius email attaching a copy of Aurelius's GDP Warrants valuation model. Aurelius's competitors would be able to glean from that document methodology that Aurelius currently uses to evaluate and model prospective returns on securities like the GDP Warrants. That information is confidential, proprietary, and commercially sensitive as it would "provide valuable insights into [Aurelius's] current business practices that a competitor would seek to exploit," and, accordingly, should be maintained under seal. *Louis Vuitton Malletier*, 97 F. Supp. 3d at 511.
- d. Aurelius and ACP Master consent to the removal of the following redactions in the Republic's Supplemental Rule 56.1 Statement and the Republic's Rule 56.1 Response (19-cv-351, Dkt. No. 152):
  - i. Supplemental 56.1 Statement: ¶¶ 37-38, ¶ 43, ¶ 64 (citation to "Arg Ex. 56"), ¶ 100, and ¶¶ 120-126.
  - ii. Rule 56.1 Response: ¶ 1, ¶ 3.

### 3. Materials designated by Novoriver

- a. Novoriver seeks to maintain the following materials under seal:
  - i. Exhibit No. 210 to the Giuffra Declaration, lines 16:15-17:20, lines 19:5-10, and the corresponding portions of the errata sheet.
  - ii. The Republic's Supplemental Rule 56.1 Statement, in paragraph 153, the words between "Nicolino" and "tweeted."

Sealing this information is narrowly tailored and warranted. The information is non-public and concerns the ownership and control of Novoriver. Information such as the "[f]inancial records of a wholly owned

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business” is “traditionally considered private rather than public,” which “weigh[s] more heavily against access than conduct affecting a substantial portion of the public.” *United States v. Amodeo*, 71 F.3d 1044, 1051 (2d Cir. 1995). Novoriver’s privacy interest in protecting its proprietary information outweighs the presumption of public access.

Moreover, the information—which comprises only about one page of testimony and a few words among hundreds of pages of the Republic’s filings—has no bearing on the adjudication of the parties’ substantive rights or the public’s ability to assess the issues at summary judgment. This Court has granted sealing of information regarding a private company’s “profits and losses, and the structure of its finances,” recognizing that this information “is confidential and should remain so,” and “is not particularly relevant to the performance of the judicial function.” *Range v. 230 W. 41st St. LLC*, Case No.: 1:17-cv-00149-LAP, Dkt. No. 91 (S.D.N.Y. Feb. 13, 2020) (Preska, J.). The same result is warranted here.

- b. Novoriver consents to the removal of the following redactions in the Republic’s Supplemental Rule 56.1 Statement and the Republic’s Rule 56.1 Response:
  - i. Supplemental 56.1 Statement: ¶¶ 154-155.
  - ii. Rule 56.1 Response: ¶ 2.

4. Materials designated by the Adona Plaintiffs

- a. The Adona Plaintiffs consent to the unsealing of Exhibit Nos. 195, 196, 212, 213, 214, 215, 229, 237, and 251 to the Giuffra Declaration.
- b. The Adona Plaintiffs also consent to the unsealing of the following redactions in the Republic’s Opposition and Reply Brief, Supplemental 56.1 Statement, and Response to Plaintiffs’ 56.1 Statement:

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- i. Brief: page 4; page 16; page 55; page 59; page 60; page 67; and page 68.
- ii. Supplemental 56.1: ¶ 44; ¶¶ 46-47; ¶ 127; ¶¶ 129-130; ¶¶ 132-135; ¶¶ 137-138; ¶ 141; and ¶ 143.
- iii. 56.1 Response: ¶¶ 6-7; and ¶¶ 10-13.
- c. The Adona Plaintiffs respectfully request that portions of the following paragraphs in the Republic's Supplemental 56.1 Statement be narrowly redacted to maintain under seal information regarding confidential ownership structures and original purchasing entities not at issue in this case: ¶ 128; ¶ 131; ¶ 136; ¶ 139; ¶ 142; and ¶¶ 144-145. Such information is not publicly available and would reveal the strategic organization of certain investment vehicles and provide insight into the Adona Plaintiffs' investment strategies. This Court has acknowledged a party's right to shield business information and strategies the disclosure of which "may provide valuable insights into a company's current business practices that a competitor would seek to exploit." *Louis Vuitton Malletier*, 97 F. Supp. 3d at 511.
- d. The Adona Plaintiffs request that the following portions of the Republic's 56.1 Response be narrowly redacted to maintain under seal information regarding individualized pricing for the GDP Warrants that is not currently at issue in this case and may risk disclosure of confidential acquisition strategy (*i.e.*, information under chart columns "Price" and "Dollar Amount"): ¶¶ 229-234. *See Louis Vuitton Malletier*, 97 F. Supp. 3d at 511.
- e. The Adona Plaintiffs respectfully request that Exhibit No. 255 to the Giuffra Declaration remain under seal. This exhibit contains confidential and sensitive commercial information that is not publicly available, including information concerning the methods, modeling, and analysis of an advisor's proprietary research and research from third parties that have not consented to

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have their research publicly disclosed. *See New York v. Actavis, PLC*, No. 14 Civ. 7473, 2014 WL 5353774, at \*3 (S.D.N.Y. Oct. 21, 2014) (“Internal documents and unpublished drafts that contain non-public strategies and financial information constitute ‘confidential commercial information’[.]”). For the same reason, the Adona Plaintiffs also seek to redact references to Exhibit No. 168 in ¶ 145 of the Republic’s Supplemental 56.1 Statement and ¶ 5 of the Republic’s 56.1 Response, and attachments appended to Exhibit No. 239 to the Giuffra Declaration.

- f. The Adona Plaintiffs respectfully seek to redact the name and email address of the recipient of Exhibit No. 238 to the Giuffra Declaration. These redactions are to protect further intrusion into the privacy rights (names and email addresses) of non-parties not relevant to this matter, and also protect sensitive business information that may otherwise be revealed through disclosure of this information.<sup>1</sup> These redactions are consistent with this Court’s February 15, 2022 ruling allowing redaction of irrelevant personal information not germane to the case.
  - 1. Similarly, the Adona Plaintiffs seek to redact the name of the non-party that appears in ¶ 140 of the Republic’s Supplemental 56.1 Statement and ¶¶ 8-9 of the Republic’s 56.1 Response.
- g. The Adona Plaintiffs will submit redacted versions of the Republic’s Supplemental 56.1 Statement, the Republic’s 56.1 Response, and Exhibit Nos. 238, 239, and 255 if the Court grants their request to maintain this information under seal.

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<sup>1</sup> This information was also subject to a claw back request on May 1, 2023, with respect to Exhibit No. 55, which has been replaced in the record consistent with the redactions proposed in this letter.

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Plaintiffs are available to discuss these matters, and any other matters on the Court's agenda, at the Court's convenience.

Respectfully submitted,

s/ Edward A. Friedman

Edward A. Friedman  
FRIEDMAN KAPLAN SEILER  
ADELMAN & ROBBINS LLP  
7 Times Square  
New York, NY 10036-6516  
(212) 833-1100

*Counsel for Plaintiffs Aurelius  
Capital Master, Ltd. and ACP  
Master, Ltd.*

s/ Matthew M. Riccardi

Matthew M. Riccardi  
H. Rowan Gaither IV  
Jacob Taber  
PERKINS COIE LLP  
1155 Avenue of the Americas, 22nd  
Floor  
New York, New York 10036-2711  
(212) 530-1800

*Counsel for Plaintiff 683 Capital  
Partners, LP*

s/ Evan A. Kubota

Javier Bleichmar  
Evan A. Kubota  
BLEICHMAR FONTI & AULD LLP  
7 Times Square, 27th Floor  
New York, New York 10036  
(212) 789-1341

*Counsel for Plaintiff Novoriver S.A.*

s/ Matthew S. Salerno

Matthew S. Salerno  
Ryan Schachne  
LATHAM & WATKINS LLP  
1271 Avenue of the Americas  
New York, New York 10020  
(212) 906-1200

*Counsel for Plaintiffs Adona LLC,  
Egoz I LLC, Egoz II LLC, Mastergen,  
LLC, Erythrina, LLC, AP 2016 1,  
LLC, AP 2014 3A, LLC, AP 2014 2,  
LLC, and WASO Holding  
Corporation*

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*s/ Eric J. Grannis*

Eric J. Grannis  
LAW OFFICES OF ERIC J.  
GRANNIS  
11 Broadway, Suite 615  
New York, New York 10004  
Telephone: (212) 903-1025

*Counsel for Plaintiffs Ape Group  
SpA, Romano Consulting SpA, Icaro  
SRL and Elazar Romano*

cc: All counsel of record (by ECF)

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**APPENDIX A****I. Exhibits to the Giuffra Declaration**

<b>Exhibit No.</b>	<b>Designating Party/Parties</b>	<b>Designating Party's Position as to Sealing/Redaction</b>
185	All Plaintiffs	Consent to unseal
189	N/A	No position
193	683 Capital	Consent to unseal
194	683 Capital	Consent to unseal
195	Adona Plaintiffs	Consent to unseal
196	Adona Plaintiffs	Consent to unseal
197	All Plaintiffs	Consent to unseal
206	683 Capital	Consent to unseal
208	683 Capital	Consent to unseal
209	683 Capital	Consent to unseal
210	Novoriver	Seek to redact in part; otherwise consent to unseal
211	683 Capital	Consent to unseal
212	Adona Plaintiffs	Consent to unseal
213	Adona Plaintiffs	Consent to unseal
214	Adona Plaintiffs	Consent to unseal
215	Adona Plaintiffs	Consent to unseal
217	All Plaintiffs	Consent to unseal

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<b>Exhibit No.</b>	<b>Designating Party/Parties</b>	<b>Designating Party's Position as to Sealing/Redaction</b>
229	Adona Plaintiffs	Consent to unseal
235	Aurelius and ACP Master	Seek to file under seal
236	Aurelius and ACP Master	Seek to redact in part; otherwise consent to unseal
237	Adona Plaintiffs	Consent to unseal
238	Adona Plaintiffs	Seek to redact in part; otherwise consent to unseal
239	Adona Plaintiffs	Seek to redact in part; otherwise consent to unseal
240	683 Capital	Consent to unseal
247	Aurelius and ACP Master	Consent to unseal
248	All Plaintiffs	Consent to unseal
250	Aurelius and ACP Master	Consent to unseal
251	Adona Plaintiffs	Consent to unseal
255	Adona Plaintiffs	Seek to file under seal

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## II. Redactions Applied to the Republic's Brief

Redaction	Party/Parties Whose Designated Material is Referenced	Designating Party's Position as to Redaction
Page 4	Adona Plaintiffs	Consent to remove redaction
Page 16	Adona Plaintiffs	Consent to remove redaction
Page 38	All Plaintiffs	Consent to remove redaction
Page 55	All Plaintiffs	Consent to remove redaction
Page 58	All Plaintiffs	Consent to remove redaction
Page 59	Adona Plaintiffs	Consent to remove redaction
Page 60	All Plaintiffs	Consent to remove redaction
Pages 67-68	Adona Plaintiffs	Consent to remove redaction

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### III. Redactions Applied to the Republic's Supplemental 56.1 Statement

Paragraph / Redaction	Party/Parties Whose Designated Material is Referenced	Designating Party's Position as to Sealing/Redaction
¶ 37	Aurelius and ACP Master	Consent to remove redaction
¶ 38	Aurelius and ACP Master	Consent to remove redaction
¶ 39	All Plaintiffs	Consent to remove redaction
¶ 40	All Plaintiffs	Consent to remove redaction
¶ 43	Aurelius and ACP Master	Consent to remove redaction
¶ 44	Adona Plaintiffs	Consent to remove redaction
¶ 46	Adona Plaintiffs	Consent to remove redaction
¶ 47	Adona Plaintiffs	Consent to remove redaction
¶ 49	All Plaintiffs	Consent to remove redaction
¶ 54	All Plaintiffs	Consent to remove redaction
¶ 64 (citation to "Arg. Ex. 56")	Aurelius and ACP Master	Consent to remove redaction

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Paragraph / Redaction	Party/Parties Whose Designated Material is Referenced	Designating Party's Position as to Sealing/Redaction
¶ 64 (citation to “Arg. Ex. 248”)	All Plaintiffs	Consent to remove redaction
¶ 78	All Plaintiffs	Consent to remove redaction
¶ 100	Aurelius and ACP Master	Consent to remove redaction
¶ 108	All Plaintiffs	Consent to remove redaction
¶ 110	All Plaintiffs	Consent to remove redaction
¶ 120	Aurelius and ACP Master	Consent to remove redaction
¶ 121	Aurelius and ACP Master	Consent to remove redaction
¶ 122	Aurelius and ACP Master	Consent to remove redaction
¶ 123	Aurelius and ACP Master	Consent to remove redaction
¶ 124	Aurelius and ACP Master	Consent to remove redaction
¶ 125	Aurelius and ACP Master	Consent to remove redaction

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Paragraph / Redaction	Party/Parties Whose Designated Material is Referenced	Designating Party's Position as to Sealing/Redaction
¶ 126	Aurelius and ACP Master	Consent to remove redaction
¶ 127	Adona Plaintiffs	Consent to remove redaction
¶ 128	Adona Plaintiffs	Seek to redact in part
¶ 129	Adona Plaintiffs	Consent to remove redaction
¶ 130	Adona Plaintiffs	Consent to remove redaction
¶ 131	Adona Plaintiffs	Seek to redact in part
¶ 132	Adona Plaintiffs	Consent to remove redaction
¶ 133	Adona Plaintiffs	Consent to remove redaction
¶ 134	Adona Plaintiffs	Consent to remove redaction
¶ 135	Adona Plaintiffs	Consent to remove redaction
¶ 136	Adona Plaintiffs	Seek to redact in part
¶ 137	Adona Plaintiffs	Consent to remove redaction
¶ 138	Adona Plaintiffs	Consent to remove redaction

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Paragraph / Redaction	Party/Parties Whose Designated Material is Referenced	Designating Party's Position as to Sealing/Redaction
¶ 139	Adona Plaintiffs	Seek to redact in part
¶ 140	Adona Plaintiffs	Seek to redact in part
¶ 141	Adona Plaintiffs	Consent to remove redaction
¶ 142	Adona Plaintiffs	Seek to redact in part
¶ 143	Adona Plaintiffs	Consent to remove redaction
¶ 144	Adona Plaintiffs	Seek to redact in part
¶ 145	Adona Plaintiffs	Seek to redact in part
¶ 146	683 Capital	Consent to remove redaction
¶ 147	683 Capital	Consent to remove redaction
¶ 148	683 Capital	Consent to remove redaction
¶ 149	683 Capital	Consent to remove redaction
¶ 150	683 Capital	Consent to remove redaction
¶ 151	683 Capital	Consent to remove redaction

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<b>Paragraph / Redaction</b>	<b>Party/Parties Whose Designated Material is Referenced</b>	<b>Designating Party's Position as to Sealing/Redaction</b>
¶ 152	683 Capital	Consent to remove redaction
¶ 153	Novoriver	Seek to redact in part; otherwise consent to remove redaction
¶ 154	Novoriver	Consent to remove redaction
¶ 155	Novoriver	Consent to remove redaction

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**IV. Redactions Applied to the Republic's Rule 56.1 Response**

<b>Paragraph / Redaction</b>	<b>Party/Parties Whose Designated Material is Referenced</b>	<b>Designating Party's Position as to Sealing/Redaction</b>
¶ 1	Aurelius and ACP Master	Consent to remove redaction
¶ 2	Novoriver	Consent to remove redaction
¶ 3	Aurelius and ACP Master	Consent to remove redaction
¶ 4	683 Capital	Consent to remove redaction
¶ 5	Adona Plaintiffs	Seek to redact in part
¶ 6	Adona Plaintiffs	Consent to remove redaction
¶ 7	Adona Plaintiffs	Consent to remove redaction
¶ 8	Adona Plaintiffs	Seek to redact in part
¶ 9	Adona Plaintiffs	Seek to redact in part
¶ 10	Adona Plaintiffs	Consent to remove redaction
¶ 11	Adona Plaintiffs	Consent to remove redaction
¶ 12	Adona Plaintiffs	Consent to remove redaction

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Paragraph / Redaction	Party/Parties Whose Designated Material is Referenced	Designating Party's Position as to Sealing/Redaction
¶ 13	Adona Plaintiffs	Consent to remove redaction
¶ 229	Adona Plaintiffs	Seek to redact in part
¶ 230	Adona Plaintiffs	Seek to redact in part
¶ 231	Adona Plaintiffs	Seek to redact in part
¶ 232	Adona Plaintiffs	Seek to redact in part
¶ 233	Adona Plaintiffs	Seek to redact in part
¶ 234	Adona Plaintiffs	Seek to redact in part